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SIPDIS

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SUBJECT: KAZAKHSTANI PARLIAMENT CONSIDERS TROUBLING PACKAGE OF NATIONAL SECURITY AMENDMENTS ON NATIONAL SECURITY

Ref: A) Almaty 1501, B) Almaty 1559

1. (SBU) SUMMARY: The Mazhilis (lower house of Parliament) is currently considering a set of national security amendments that continues the regressive trend of the recent Law on Extremism and amendments to the Elections Law. The draft legislation would set new limits on, inter alia, freedom of association and assembly, freedom of the press, freedom of peaceful expression of religious belief, and privacy rights. Kazakhstani government officials have publicly and privately defended this wave of restrictions as necessary to ensure national security. Legal experts generally agree, however, that the draft legislation is for the most part duplicative, and gives unnecessarily broad, ambiguously-defined powers to the government at the expense of citizens' rights. END SUMMARY

#### TIMELINE

2. (SBU) The National Security amendments were drafted by the Ministry of Justice and delivered to the Mazhilis on February 24 for review. The Mazhilis Committee on International Affairs, Defense and Security is currently discussing the package and voting on changes. There are reports that debate on these amendments will be heard during the joint meeting of the Mazhilis and the Senate on April 26, effectively putting them on a fast-track.

#### SCOPE OF THE AMENDMENTS

3. (SBU) Due to the level of alarm among human rights observers in Kazakhstan, ODIHR rushed to produce an assessment of the draft amendments. The assessment, released on April 18, states that the national security amendments lack a "thematic focus," and are rife with the type of definitional ambiguities noted in the Extremism Law and Election Law amendments. The package contains amendments to the following: the Criminal Code, the Code of Criminal Procedure, the Code of Civil Procedure, the Administrative Code, the Law on State Registration of Legal Entities ("Registration Law"), the Law on Administrative Control over Persons Released from Jails, the Law on Political Parties, the Law on Mass Media, the Law on Non-Commercial Organizations ("NCO Law") and the Law on Religious Freedom and Religious Associations ("Religion Law"). In all, there are more than 100 amended subsections spread out over 22 separate articles within the laws above.

#### FREEDOM OF RELIGION

4. (SBU) The amendments contain many troubling provisions. The most serious would impose restrictions on previously tolerated religious activity such as education and missionary work. The draft amendments would also give courts broader powers to suspend the activities of religious groups and ultimately "dissolve" those groups. Under the proposed changes, religious groups would be required to register with the government, as would foreign missionaries, whose activities would be limited. There are many ambiguities in the amendments and most material terms are undefined. Both clerical and nonclerical religious education would come under tighter state control and all facilities offering religious education would be required to register. Under an amendment to the Administrative Code, participation in or contribution to an unregistered religious organization would be a fineable offense.

#### POLITICAL PARTIES

5. (SBU) Under new amendments to the Administrative Code, Political Parties would be forbidden from receiving funding from foreign organizations or individuals; foreign donors would be liable to fines. Political parties would be required to publish an annual financial statement and the heads of noncompliant parties would be personally liable. Participation in or contributing money to an unregistered political party, or any unregistered public association, would be illegal and incur a fine.

16. (SBU) Proposed amendments to the Political Party Law would give broader latitude for the GOK to deny registration of a party. Registration would be refused if the party violated legal procedures for establishing a party or has not submitted a list of party members and a list of constituent branch offices with an organizational chart and a party would be barred from reapplication for three months. The power to suspend a registered political party's activities would be extended to the procuracy, pending decision by a court. In addition to the grounds already enumerated in the Political Party Law, registered parties would be subject to liquidation for accepting prohibited contributions. Any donations to political parties found by a court to be prohibited would become state assets. Political parties would be required to issue an annual financial statement to be published in mass media.

#### PRIVACY RIGHTS

17. (SBU) An amendment to the Law on Operative Investigative Activity would broaden the authority of allows law enforcement officials to intercept communications by giving them the right to search internet, wireless and all other networked data pursuant to a writ from a procurator., within the scope of their investigative powers. Currently, law enforcement officials are able to intercept written and telephonic communications intercepts by law enforcement are done pursuant to a writ from a procurator, not a court; in cases of "emergency," law enforcement can proceed with the intercept and alert the Procuracy within three days. These procedures would presumably apply to networked electronic intercepts as well. Under a separate amendment, individuals convicted of "crimes of an extremist nature" would be subject to administrative control after their release from prison., under a separate amendment.

#### MEDIA AND FREE SPEECH

18. (SBU) Amendments to the Mass Media Law prohibit the disclosure of state secrets, as well as publication of "propaganda," articles praising or justifying terrorism and extremism, articles promoting drugs or drug use, and pornography. Publication of such information would be grounds for suspension of the broadcast or print media outlet. A further amendment grants procurators the right to suspend media publication, though the right to close a media outlet remains vested in the courts and at the election of the outlet's owners. Grounds for closure include the following: promoting violent regime change, "violating the integrity of the Republic of Kazakhstan," undermining national security, justifying extremism or terrorism, and failing to remedy issues causing a prior suspension.

#### NGOs AND OTHER NON-COMMERCIAL ORGANIZATIONS

19. (SBU) An amendment to the Law on Non-Commercial Organizations (NCOs) requires financial reporting from those receiving funding from foreign governments, foreign organizations, foreign citizens and stateless persons. Non-governmental organizations (NGOs) and other NCOs that are branches or international or foreign organizations would be required to publish an annual report listing their founders, property assets and how owned, along with income and expense statements.  
COMMENT: As written, this amendment appears to cover international organizations such as OSCE and IOM. END  
COMMENT

#### COMMENT

10. (SBU) It is not yet clear whether the Parliament will heed ODIHR's warnings regarding the inconsistency of many of the amendments with Kazakhstan's OSCE commitments. The OSCE is organizing a roundtable discussion of the amendments in Astana on April 22 to highlight concerns. The fact that the

package is reportedly on the legislative fast track, similar to the handling of the recent election law amendments (ref A), may well indicate that the GOK intends to forge ahead despite international concerns. Post's high-level discussions (ref B) have revealed a clear sense that in the wake of events in Kyrgyzstan, the Kazakhstani government perceives the need to take action to ensure national security and head off any attempts to destabilize the country. The OSCE/ODIHR has weighed in already on these amendments, providing a detailed legal analysis that highlights inconsistencies with Kazakhstan's OSCE commitments. Whether the GOK Parliament will ignore these

recommendations, as it disregarded OSCE/ODIHR comments on several recent pieces of legislation, remains to be seen. Kazakhstani officials have publicly and privately grumbled that "all anyone wants to talk about is the Human Dimension" of OSCE, and MPs have publicly called OSCE/ODIHR's assessment of a recent law an insult to Kazakhstan's sovereignty. A Kazakhstani official recently commented to an EmbOff that "security is everything now." This most recent package of legislation is an unfortunate confirmation that "security" is being pursued at the expense of protecting basic human rights and fulfilling Kazakhstan's international commitments.

11011. (U) Dushanbe minimize considered.

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